

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

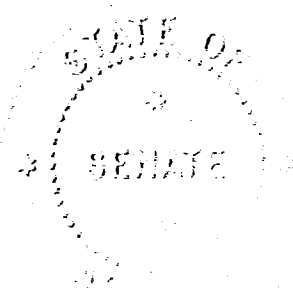
CHAPTER 163

HOUSE BILL 2305

AN ACT

AMENDING SECTION 41-785, ARIZONA REVISED STATUTES; RELATING TO THE STATE PERSONNEL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-785, Arizona Revised Statutes, is amended to
3 read:

4 41-785. Appeals to the personnel board; notice of charges;
5 hearings

6 A. Any employee who has completed the employee's original probationary
7 period of service as provided by the personnel rules may appeal to the
8 personnel board seeking relief from dismissal from state service, suspension
9 for more than forty working hours or demotion resulting from disciplinary
10 action. The appeal shall be filed not later than ten working days after the
11 effective date of such action. The employee shall be furnished with
12 specified charges in writing when the action is taken. Such appeal shall be
13 in writing and must state specific facts relating directly to the charges on
14 which the appeal is based and shall be heard by the personnel board within
15 thirty days after its receipt. The personnel board shall provide the
16 employing agency with a copy of the appeal not less than twenty days in
17 advance of the hearing.

18 B. Hearings on such appeals shall be open to the public, except in
19 cases where the employee requests a confidential hearing, and shall be
20 informal with technical rules of evidence not applying to the proceedings
21 except the rule of privilege recognized by law. Both the employee and the
22 employing agency shall be notified of any hearing or meeting date not less
23 than twenty days in advance of the hearing or not less than ten days in
24 advance of a meeting and may select representatives of their choosing,
25 present and cross-examine witnesses and give evidence before the personnel
26 board. The personnel board may appoint a hearing officer to conduct the
27 hearing and take evidence on behalf of the board and exercise the rights
28 prescribed by section 12-2212. The personnel board shall prepare an official
29 record of the hearing, including all testimony recorded manually or by
30 mechanical device, and exhibits. Either party may request that the record be
31 transcribed. If a party requests that the record be transcribed, an entity,
32 other than the personnel board, selected by the requesting party shall
33 transcribe the record at the cost of the requesting party. If the
34 disciplinary hearing would involve evidence the state is prevented by law
35 from disclosing, then a confidential hearing upon the state's request shall
36 be granted.

37 C. The board may reverse an agency's action on appeal only if the
38 board finds the action to be arbitrary, capricious or otherwise contrary to
39 law.

40 D. The board may reduce MODIFY the disciplinary penalty chosen by an
41 agency only if the board finds the penalty to be excessive DISPROPORTIONATE
42 TO THE PROVEN OFFENSE IN LIGHT OF MITIGATING CIRCUMSTANCES or made for
43 reasons that are arbitrary, capricious or otherwise contrary to law.

44 E. Within forty-five days after the conclusion of the hearing, the
45 board shall enter its decision and shall at the same time send a copy of the

1 decision by certified mail to the employing agency and to the employee at the
2 employee's address as given at the hearing or to a representative designated
3 by the employee to receive a copy of the decision.

4 F. Any party may appeal the decision of the board pursuant to title
5 12, chapter 7, article 6 to the superior court in the employee's county of
6 residence on one or more of the following grounds; that the order was:

7 1. Founded on or contained error of law which shall specifically
8 include error of construction or application of any pertinent rules.

9 2. Unsupported by any evidence as disclosed by the entire record.

10 3. Materially affected by unlawful procedure.

11 4. Based on A violation of any constitutional provision.

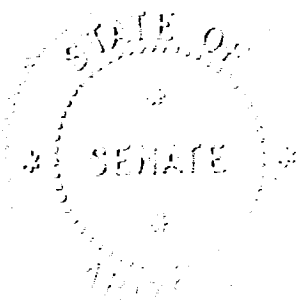
12 5. Arbitrary or capricious.

13 G. AN appeal shall be available to the court of appeals from the order
14 of the superior court pursuant to title 12, chapter 7, article 6 as in other
15 civil cases.

16 H. An employee may represent himself or designate a representative,
17 not necessarily an attorney, before any board hearing or any quasi-judicial
18 hearing held pursuant to this section providing that no fee may be charged
19 for any services rendered in connection with such hearing by any such
20 designated representative who is not an attorney admitted to practice.

APPROVED BY THE GOVERNOR APRIL 26, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2004.



Passed the House February 23, 2004

by the following vote: 40 Ayes,

13 Nays, 7 Not Voting

Jake Elake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 7, 2004

by the following vote: 26 Ayes,

3 Nays, 1 Not Voting

K. L. F. Smith
President of the Senate

Channing B. B. B.
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2305

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 20, 2004,

by the following vote: 34 Ayes,

21 Nays, 5 Not Voting



Speaker of the House

Norman L. Fyoo

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20th day of April, 2004,

at 12:23 o'clock P. M.

Winnifred Upbarra
Secretary to the Governor

Approved this 26 day of

April, 2004,

at 9³⁰ o'clock A. M.

Jon Kyl
Governor of Arizona

H.B. 2305

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 26 day of April, 2004,

at 12:34 o'clock P. M.

Janice K. Brewer
Secretary of State